

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

MATTHEW CONTRERAS,
Institutional ID No. 2319954

Plaintiff,

v.

SGT. ZEKE, *et al.*,

Defendants.

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CIVIL ACTION NO. 5:21-CV-00038-C

ORDER

The United States Magistrate Judge entered his Report and Recommendation on March 9, 2022, recommending that the Court (1) dismiss Defendants Zeke and Taylor pursuant to Federal Rule of Civil Procedure 4(m); (2) grant Defendant Wauson's motion to dismiss (Doc. 31) and dismiss any official-capacity claim against Wauson; and (3) enter a limited scheduling order, requiring Defendant Wauson to file a motion for summary judgment for the purpose of making a preliminary determination on qualified immunity. (Doc. 36). No objections were filed.

The Court reviewed the Report and Recommendation of the Magistrate Judge for plain error. Finding none, the Court **ADOPTS** the findings, conclusions, and recommendation of the United States Magistrate Judge.

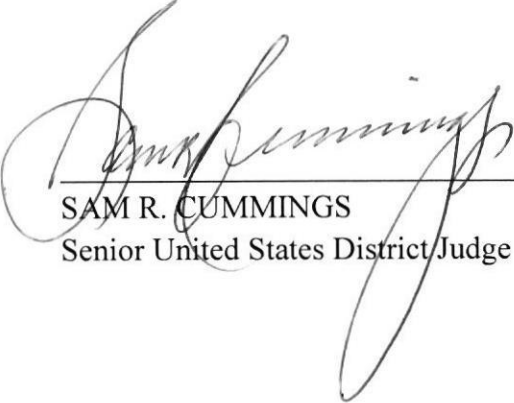
It is therefore **ORDERED**:

1. Plaintiff's claims against Defendants Zeke and Taylor are dismissed without prejudice pursuant to Rule 4(m).
2. Defendant Wauson's Motion to Dismiss (Doc. 31) is GRANTED. Plaintiff's official-capacity claims, if any, against Defendant Wauson are dismissed with prejudice for failure to state a claim.

3. There is no just reason for delay in entering a final judgment and final judgment shall be entered as to the above-named Defendants and claims pursuant to Federal Rule of Civil Procedure 54(b). Final Judgment will be entered accordingly.

As to the remaining individual-capacity claim against Defendant Wauson, the Court will separately enter a limited scheduling order for the purpose of making a preliminary determination on qualified immunity.

Dated August 1, 2022.



SAM R. CUMMINGS
Senior United States District Judge